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Proposed Counsel for Debtor

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

| | | |
|-----------------|---|-------------------|
| In re |) | Case No. 16-31325 |
| |) | Chapter 11 |
| WRAP MEDIA, LLC |) | |
| |) | |
| Debtor. |) | |

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|------------------|---|-------------------|
| In re |) | Case No. 16-31326 |
| |) | Chapter 11 |
| WRAP MEDIA, INC. |) | |
| |) | |
| Debtor. |) | |

| | | |
|-------------------------------------|----------------------|---|
| <input type="checkbox"/> | Affects LLC |) |
| <input type="checkbox"/> | Affects Inc. |) |
| <input checked="" type="checkbox"/> | Affects BOTH DEBTORS |) |

**DECLARATION OF ERIC GREENBERG IN SUPPORT OF
FIRST DAY MOTIONS**

I, Eric Greenberg, declare under penalty of perjury:

1. I am the founder of Wrap Media, LLC and Wrap Media, Inc. Since they operate a single enterprise, I refer to them collectively herein as the “Debtor”. I make this Declaration of my own personal knowledge, and if called as a witness I could and would competently testify as follows:

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Summary

2. I founded the Debtor in December of 2013. Since then, it has received investments aggregating \$28,200,000, of which my investment was a material part. Based on those investments, Wrap Media, has developed technology which is proven and potent, has obtained customers including Fortune 100 customers, and is generating revenue. It would represent an extraordinarily appealing investment as an early stage "start-up".

3. On the other hand, the Debtor is not an early stage start-up, rather the company is considered "growth stage" in its age and funding history. It has approximately \$2 million in bank debt and has gone through multiple rounds of equity and debt financing, generally resulting in liquidation preferences, anti-dilution protections, acquisition multipliers and "most favored nations" provisions in convertible debt instruments. As a consequence, the Debtor is virtually impossible to finance in its current condition.

4. A Chapter 11 affords three alternatives to maximize the value of the Debtor, in declining order of desirability:

a. First and foremost, the Debtor expects to solicit a recapitalization through which one or more investors fund what is effectively a "Series A" round of financing, resulting in existing debt and, potentially, equity receiving either some payment or equity in the recapitalized venture.

b. Second, the Debtor has received expressions of interest from significant technology companies respecting a potential merger or acquisition. Chapter 11 provides the Debtor an opportunity to effect a going-concern sale of its business, so as to maximize the recovery to creditors and equity holders, without subjecting it to the blocking rights and onerous shareholder approval requirements held by certain different existing equity classes and unsecured debt holders.

c. Finally, although the Debtor believes that one of the two foregoing options will prove available within the next 120 days, should it appear that a recapitalization or sale is not likely to occur within an appropriate time frame, the Debtor believes that Chapter 11 provides

1 the best opportunity to effect an orderly liquidation of its assets and to realize value from its
2 significant patent portfolio and commercial software platform, code and system designs.

3 *The Debtor's Business*

4 5. The Debtor was formed in December 2013, and I was its founder.

5 6. The Debtor's technology is a mobile messaging and engagement platform that improves
6 the mechanism and results of business to business and business to consumer sales, marketing and
7 customer service – a software category known as customer relationship management - CRM.

8 7. Some key features which make the Debtor's technology very appealing are: The platform
9 is web-based and template driven requiring no programming to build user experiences that can be
10 delivered though several messaging types including email, SMS texting, messaging services like
11 Facebook Messenger or Slack, or social media like Facebook or Twitter. Wrap uses intelligence and
12 automation to deliver personalized messaging and customer engagement through a beautiful “native
13 app-like” experience in the web browser – without being programmed as a native iOS or Android app or
14 having to download a native smartphone app or operate within a native smartphone app. This saves
15 significant time and money with building and delivering mobile user experiences to sell, market, service
16 and support customers. Additionally, Wrap customers own their data and are not subject to the
17 restrictions of the “walled gardens” of the social networks and messaging services and the uncertainty
18 that the rules can change within these environments.

19 8. The Debtor has carefully protected its intellectual property rights. The Debtor holds 12
20 issued United States patents, another 5 that have been formally allowed by the United States Patent and
21 Trademark Office (“USPTO”), and is prosecuting an additional 50 or so patent applications in the
22 USPTO.

23 9. The Debtor's technology and employees has provided it with more than 30 customers,
24 including marquee customers such as T-Mobile, Sprint, Cisco, NTT, Rogers, Salesforce and others, and
25 a current annualized revenue stream of approximately \$1 million.
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1 *Capital Structure*

2 10. Wrap Media, LLC is an operating company providing software as a service. Wrap
3 Media, LLC holds all of the assets of the enterprise, employs all of its personnel and conducts all of its
4 operations.

5 11. Wrap Media, Inc.'s sole asset is an approximately 60% equity interest in Wrap Media,
6 LLC. Wrap Media, Inc. was the financing vehicle for the enterprise, raising several rounds of equity
7 and obtaining \$9.5 million of convertible debt financing. Specifically,

8 a. It obtained a "seed money" investment of about \$2.5 million from my company,
9 Innovation Investments;

10 b. It obtained a Series A investment in December of 2014 of \$3.5 million, based on a
11 valuation of \$16.5 million pre, from Founders Fund Angel, Raine Ventures, Innovation
12 Investments and Transmedia Ventures;

13 c. It obtained a Series B investment in July of 2015 of \$12.7 million, based on a
14 valuation of \$60 million pre, from Raine Ventures, ProSieben, Dream Incubator (Japan),
15 Salesforce and Transmedia Ventures; and

16 d. It obtained debt financing, convertible into the next round of equity, of \$4 million
17 from Dream Incubator in December of 2015; \$2.5 million from Salesforce in February of 2016
18 and \$3 million from my company, Innovation Investments, in August of 2016.

19 12. Wrap Media, Inc. has four creditors consisting of three convertible note holders owed an
20 aggregate of approximately \$10 million and joint liability on secured debt held by Silicon Valley Bank.
21 Wrap Media, Inc. conducts no operations.

22 *Silicon Valley Bank*

23 13. Silicon Valley Bank ("SVB") holds a security interest in substantially all of the Debtor's
24 assets *other than* its intellectual property ("SVB's Collateral").

25 14. SVB's Collateral consists of cash in the approximate amount of \$300,000 held in various
26 bank accounts (exclusive of restricted funds subject to a senior pledge to other creditors), accounts
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1 receivable, furniture and equipment, and other miscellaneous assets. The Debtor has not undertaken a
2 valuation of SVB's collateral.

3 15. As of the commencement of the case, SVB's debt was not in monetary default and SVB
4 had not formally asserted any non-monetary default.

5 *Debtor-in-Possession Financing*

6 16. In order to extend the period during which the Debtor can maintain business operations
7 and sustain a going concern so as to maximize the recovery from a recapitalization or a sale, the Debtor
8 is in the process of raising Debtor-in-Possession financing ("DIP Financing").

9 17. The DIP Financing is to be secured by a first priority lien on the Debtor's intellectual
10 property, subject to a limited subordination to SVB. The DIP Financing bears interest at the rate of 6%
11 and requires repayment in approximately 4 months or upon the occurrence of certain events of default.

12 18. The DIP Financing is expected to be provided by multiple lenders in multiple tranches.
13 An initial tranche of up to \$350,000 must be provided by year-end, and I have agreed to provide that
14 initial tranche. The Debtor will require additional funding from the DIP Financing in order to operate in
15 January and thereafter.

16 *Cash Collateral*

17 19. The Debtor requires access to cash and the proceeds of its accounts receivable in order to
18 operate. A weekly cash receipts and disbursement budget through the end of January, 2017 is attached
19 hereto.

20 20. SVB holds the only lien on the Debtor's assets, but that lien encumbers cash and accounts
21 receivable, and so affords SVB cash collateral rights. As adequate protection and in order to afford SVB
22 assurance that its collateral position will not diminish during the course of the bankruptcy case, the
23 Debtor proposes to provide SVB with the following:

24 a. A replacement lien against post-petition assets with the same nature, extent and
25 validity as SVB's pre-petition lien;

26 b. A lien on the Debtor's intellectual property, junior only to the DIP Financing lien;
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1 c. A subordination of the lien securing the DIP Financing, but only to the extent
2 necessary to protect SVB from any post-petition diminution in the SVB Collateral for its allowed
3 secured claim; and

4 d. Payments of approximately \$9,000 per month, equivalent to non-default interest
5 on its debt.

6 21. I believe that the intellectual property in which SVB currently has no lien or interest has
7 very substantial value – potentially many millions of dollars, but in any event not less than \$1 million –
8 and consequently the foregoing relief affords SVB adequate protection for the use of its cash collateral.

9 22. Moreover, in the absence of an ability to use cash collateral the Debtor's business must
10 immediately cease operations. That would result in a dramatic reduction in the value of the Debtor's
11 assets, since it would become impossible to realize anything from the Debtor's going concern value, and
12 it would be necessary to sell the intellectual property without access to the engineers most
13 knowledgeable about it.

14 *Employees*

15 23. The retention of key employees will be critical to a successful exit through a
16 recapitalization or through a going concern sale.

17 24. Over the course of the past four months, the Debtor has implemented reduction in force
18 lay-offs bringing its headcount from over 60 to 25. The core personnel that remain are absolutely
19 essential to the Debtor's continuing operations, so it is critical that they be encouraged to remain and that
20 their reasonable expectations of ongoing compensation and benefits are not disappointed.

21 25. The Debtor intends promptly to bring a motion to approve an employee retention plan.
22 For the purposes of that motion the affected employees will not be managers (other than arguably the
23 Chief Technical Officer) but rather they will be the engineers and salespersons who are at the core of the
24 business's successful operation.

25 26. In the immediate term, however, it is essential that the Court authorize the Debtor to
26 continue to perform its obligations to its employees. The Debtor's employees generally live very close
27 to their paychecks, and all would find any disruption or delay in payment or in their benefits an extreme
28 hardship.

27. The Debtor funds payroll on the first and fifteenth day of each month, so the next payroll is due on Thursday, December 15th. The Debtor funded a partial payroll pre-petition covering the period December 1, 2016 through December 10, 2016, so it must fund only a 1/3rd payroll this Thursday. On the other hand, it is essential that the Debtor timely fund that payroll in order to preserve employee confidence.

28. It is also essential that the Debtor be authorized to continuously provide benefits such as health care and to honor obligations respecting paid time off, sick leave and similar benefits.

Joint Administration / Rule 2015.3

29. Wrap Media, Inc. holds approximately 60% of the equity in Wrap Media, LLC as its sole asset and has only 4 creditors. Wrap Media, Inc. has no operations, and thus will be reflecting no activity in its Monthly Operating Reports.

30. All operations are conducted by Wrap Media, LLC, which also owns all of the assets of the enterprise. All of the enterprise's debt, apart from the three convertible notes, constitutes obligations of Wrap Media, LLC.

31. The Debtors operated under a single mirrored management structure, in which the same persons were appointed to the Board of Managers of Wrap Media, LLC and the Board of Directors of Wrap Media, Inc., the meetings of both Boards were conducted jointly with all decisions applying to both entities, and the same individuals occupied the same offices with each entity.

32. It makes sense to designate Wrap Media, LLC as the lead case in administratively consolidated proceedings. All of Wrap Media, Inc.'s creditors have been added as additional notice parties to Wrap Media, LLC's mailing matrix.

33. The Debtor operated an affiliate in Lithuania named UAB Wrap Media Lithuania. The Debtor laid off all of the employees of the Lithuanian affiliate materially pre-petition, and so the Lithuanian affiliate has no ongoing operations.

34. The Lithuanian affiliate is currently involved in the process of dissolving under Lithuanian law, a process which is anticipated to require up to 6 months to complete. The dissolution activity is being performed largely or completely by Lithuanian lawyers, all of whom were prepaid for

1 their efforts. If even possible, providing quarterly reports on the dissolution of the Lithuanian subsidiary
2 pursuant to Rule 2015.3 would be burdensome, but would provide no useful information.

3 I declare under penalty of perjury according to the laws of the United States of America that the
4 foregoing is true and correct and that this Declaration was executed in Larkspur, California on
5 December 11, 2016.

6 /s/ Eric Greenberg.
7 Eric Greenberg
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Wrap Media
Short Term Cash Plan
(As of 12/10/16)

| | <u>12/15/2016</u> | <u>12/31/2016</u> | <u>Total Dec 2016</u> | <u>1/15/2016</u> | <u>1/31/2017</u> | <u>Total Jan 2017</u> |
|---|-------------------|-------------------|-----------------------|------------------|------------------|-----------------------|
| Beginning Unrestricted Cash (12/10/16) | 291,248 | 179,570 | 291,248 | 142,559 | 18,289 | 142,559 |
| DiP Loan Proceeds | 0 | 200,000 | 200,000 | 150,000 | 0 | 150,000 |
| AR Cash Receipts | 0 | 30,000 | 30,000 | 40,000 | 40,000 | 80,000 |
| Payroll & Related Taxes | (91,678) | (183,710) | (275,389) | (163,710) | (203,710) | (367,421) |
| Employee Health Benefits | 0 | 0 | 0 | (30,000) | 0 | (30,000) |
| Engineering Expenses | 0 | (14,000) | (14,000) | (12,500) | (38,500) | (51,000) |
| Sales & Marketing Expenses | (10,000) | (20,000) | (30,000) | (45,000) | (20,000) | (65,000) |
| Admin & Office Expenses | (10,000) | (37,300) | (47,300) | (54,060) | (21,300) | (75,360) |
| Legal Fees | 0 | (12,000) | (12,000) | 0 | (12,000) | (12,000) |
| Interest Payments | | | 0 | (9,000) | (1,000) | (10,000) |
| Ending Unrestricted Cash | 179,570 | 142,559 | 142,559 | 18,289 | (238,222) | (238,222) |
| Cash In | 0 | 230,000 | 230,000 | 190,000 | 40,000 | 230,000 |
| Cash Out | (111,678) | (267,010) | (378,689) | (314,270) | (296,510) | (610,781) |
| Net Change in Unrestricted Cash | (111,678) | (37,010) | (148,689) | (124,270) | (256,510) | (380,781) |
| | | | | | | |
| Total Non-Payroll OPEX Costs | (20,000) | (83,300) | (103,300) | (111,560) | (91,800) | (203,360) |

Wrap Media, LLC - Operating Plan

| <u>Ending Cash Projection</u> | <u>Cash Receipts</u> | <u>DiP Loan</u> | <u>SVB & DiP Loan Interest</u> | <u>Actual Pymts</u> | <u>Non Payroll Expected Costs</u> | <u>Health Benefits</u> | <u>Payroll, Taxes & Commissions</u> | <u>Gross Burn</u> | <u>Ending Unrestricted Cash</u> |
|-------------------------------|----------------------|-----------------|--|---------------------|---------------------------------------|----------------------------|---|-------------------|-------------------------------------|
| 12/15/2016 | | | | | (20,000) | | (91,678) | (111,678) | 179,570 |
| 12/31/2016 | 30,000 | 200,000 | | | (83,300) | | (183,710) | (37,010) | 142,559 |
| 1/15/2016 | 40,000 | 150,000 | (9,000) | | (111,560) | (30,000) | (163,710) | (124,270) | 18,289 |
| 1/31/2016 | 40,000 | | (1,000) | | (91,800) | | (203,710) | (256,510) | (238,222) |
| 2/15/2016 | 50,000 | | (9,000) | | (111,560) | (30,000) | (183,710) | (284,270) | (522,492) |
| 2/28/2016 | 50,000 | | (1,750) | | (91,800) | | (203,710) | (247,260) | (769,753) |
| 3/15/2016 | 50,000 | | (9,000) | | (111,560) | (30,000) | (183,710) | (284,270) | (1,054,023) |
| 3/31/2016 | 50,000 | | (1,750) | | (91,800) | | (203,710) | (247,260) | (1,301,283) |
| 4/15/2016 | 50,000 | | (9,000) | | (111,560) | (30,000) | (183,710) | (284,270) | (1,585,554) |
| 4/30/2016 | 50,000 | | (1,750) | | (91,800) | | (203,710) | (247,260) | (1,832,814) |

Wrap Media
Non-Headcount Related Costs

| <u>Engineering Expenses</u> | Full Month | Dec 15 Pymt | Dec 31 Pymt | Jan 15th & On Pymts | Jan 31th & On Pymts | |
|---|----------------|---------------|---------------|---------------------|---------------------|---|
| Abstracta | 9,000 | | 9,000 | | 9,000 | R&D consultants |
| Design Consultants | 15,000 | | | 7,500 | 7,500 | Design Consultants |
| Eammune/Infosec | 12,000 | | | | 12,000 | Security/enterprise-readiness consultants |
| EPC IT Solutions | 5,000 | | 5,000 | | 5,000 | IT consulting |
| Other Engineering | 10,000 | | | 5,000 | 5,000 | R&D consulting |
| Total Engineering Expenses | 51,000 | - | 14,000 | 12,500 | 38,500 | |
| <u>Sales & Marketing Expenses</u> | | | | | | |
| MediaLink | 25,000 | | | 25,000 | | Marketing, lead-gen |
| Travel & Related Expenses | 30,000 | 5,000 | 10,000 | 15,000 | 15,000 | Travel & Related Expenses |
| Sales Consultants | 10,000 | 5,000 | 10,000 | 5,000 | 5,000 | Sales Consultant |
| Total Sales & Marketing Expenses | 65,000 | 10,000 | 20,000 | 45,000 | 20,000 | |
| <u>Admin & Office Expenses</u> | | | | | | |
| 275 Sacramento Street, LLC | 2,000 | | 2,000 | | 2,000 | Electricity |
| Beautiful | 6,000 | | 3,000 | 3,000 | 3,000 | Cafeteria |
| Canteen Refreshment Services | 4,000 | | 4,000 | | 4,000 | Cafeteria |
| Court Admin - US Trustee Fee | 2,000 | | | | 2,000 | US Trustee Fee |
| Credit Card Charges (See Below) | 40,760 | | | 40,760 | | Credit Card Charges |
| Office Admin Temp | 5,000 | | 3,000 | 2,500 | 2,500 | Clerical and Admin Work |
| Kranz & Associates | 10,000 | | 5,000 | 5,000 | 5,000 | Finance & Accounting Consultant |
| Misc | 5,000 | 10,000 | 5,000 | 2,500 | 2,500 | Misc Office Admin |
| Lender Admin Fees | | | 15,000 | | | Admin fees for Lender |
| The Fruit Guys | 600 | | 300 | 300 | 300 | Cafeteria |
| Total Admin & Office Expenses | 75,360 | 10,000 | 37,300 | 54,060 | 21,300 | |
| <u>Legal Fees</u> | | | | | | |
| Baker McKenzie | 1,000 | | | | | International Legal |
| Beyer Law Group LLP | 5,000 | | | | | IP Legal |
| Fenwick & West, LLP | 5,000 | | | | | General Legal |
| Harvey Siskind | 2,000 | | | | | IP Legal |
| Law Office of Erik Riegler | 5,000 | | | | | General Legal |
| Pachulski Stang Ziehl & Jones LLP | 12,000 | | 12,000 | | 12,000 | Trustee Legal |
| South Gate | 2,000 | | | | | International Legal |
| Total Legal Fees | 32,000 | - | 12,000 | - | 12,000 | |
| Total Non-Headcount Related Costs | 223,360 | 20,000 | 83,300 | 111,560 | 91,800 | |

| <u>Credit Card Charges</u> | Budget (on CC) | Dec 15 Pymts | Dec 31 Pymts | Jan 15th & On Pymts | Jan 31th & On Pymts | Comments |
|----------------------------|----------------|--------------|--------------|---------------------|---------------------|-----------------------------|
| 8X8, INC. | 500 | | | | | Telecom |
| Adobe Systems | 625 | | | | | SW tool subscription |
| AT&T | 500 | | | | | Telecom |
| Atlassian | 930 | | | | | SW tool subscription |
| Amazon Web Services | 22,000 | | | | | Bandwidth/hosting |
| BambooHR | 500 | | | | | SW tool subscription |
| Bill.com, Inc | 100 | | | | | SW tool subscription |
| Bohemian Coding | 99 | | | | | SW tool subscription |
| Browser Stack | 39 | | | | | SW tool subscription |
| Chatlio | 49 | | | | | SW tool subscription |
| Cirrus | 84 | | | | | SW tool subscription |
| CloudCraft | 49 | | | | | SW tool subscription |
| CLOUDFLARE | 20 | | | | | SW tool subscription |
| Easy DNS | 75 | | | | | Bandwidth/hosting |
| Eden | 1,360 | | | | | Office/meal setup/take-down |
| Elev.io | 79 | | | | | SW tool subscription |
| Expensify | 180 | | | | | SW tool subscription |
| EZTexting | 100 | | | | | SW tool subscription |
| FEDEX | 500 | | | | | Postage |
| First Republic Bank | 197 | | | | | Bank Fees |
| GETTY IMAGES | 399 | | | | | SW tool subscription |
| GitHub | 300 | | | | | SW tool subscription |
| Google | 500 | | | | | SW tool subscription |
| Gum | 198 | | | | | SW tool subscription |
| Harvest | 149 | | | | | SW tool subscription |
| Intuit | 40 | | | | | SW tool subscription |
| iStock | 170 | | | | | SW tool subscription |
| Jfrog | 98 | | | | | SW tool subscription |
| LeapFin | 500 | | | | | SW tool subscription |

| | |
|-------------------|-------|
| Misc Charges | 1,000 |
| Motion.ai | 50 |
| New Relic | 2,700 |
| Office Supplies | 500 |
| PagerDuty | 885 |
| Optimizley | 400 |
| Pingdom | 15 |
| SHUTTERSTOCK, INC | 199 |
| Slack | 400 |
| SpeedCurve | 45 |
| Status Page | 99 |
| Sumome | 100 |
| Twilio | 300 |
| Typeform | 70 |
| Verizon | 958 |
| Zuora | 2,700 |

Misc
SW tool subscription
SW tool subscription
Office Supplies
SW tool subscription
SW tool subscription
SW tool subscription
SW tool subscription
SW tool subscription
SW tool subscription
SW tool subscription
SW tool subscription
SW tool subscription
Telecom
SW tool subscription

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|---------------------------|--------|--|--|--------|---|
| Total Credit Card Charges | 40,760 | | | 40,760 | 0 |
|---------------------------|--------|--|--|--------|---|